

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
WILL COUNTY, ILLINOIS**

ALYSSIA BENFORD, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 2021-MR-51
	)	
MARIPAT OLIVER, et.al.,	)	
	)	
Defendants.	)	

**DEFENDANTS' VERIFIED ANSWER TO COMPLAINT AT LAW**

NOW COME Defendants, DUPAGE TOWNSHIP, MARIPAT OLIVER, KEN BURGESS, and FELIX GEORGE, by and through their attorney, K. Austin Zimmer of Del Galdo Law Group, LLC, and for their Verified Answer to Plaintiff's Verified Complaint at Law, states:

1. Plaintiff, ALYSSIA BENFORD is an individual residing in the City of Bolingbrook, Will County, Illinois. She is also a Trustee on the DuPage Township Board.

**ANSWER: Defendants admit the allegations contained in Paragraph No. 1.**

2. Plaintiff, DENNIS RAGA, is an individual residing in the City of Bolingbrook, Will County, Illinois. He is also a Trustee on the DuPage Township Board.

**ANSWER: Defendants admit the allegations contained in Paragraph No. 2.**

3. Plaintiff, JOHN KRAFT, is one of the founders and Directors of the EDGAR COUNTY WATCHDOGS, an Illinois Not-For-Profit Corporation situated in Edgar County, Illinois, engaged in the media and reporting industry.

**ANSWER: On information and belief, Defendants admit the allegations contained in Paragraph No. 3.**

4. Defendant, DUPAGE TOWNSHIP (the “Township”), is a government entity duly organized and existing under the provisions of the Illinois Township Code, 60 ILCS 1/1-1 *et. seq.*, which is situated in Will County, Illinois.

**ANSWER: Defendants admit the allegations contained in Paragraph No. 4.**

5. Defendants, MARIPAT OLIVER and KEN BURGESS are Trustees serving on the Township Board for DUPAGE TOWNSHIP.

**ANSWER: Defendants admit the allegations contained in Paragraph No. 5.**

6. Defendant, FELIX GEORGE, is the Township Supervisor for DUPAGE TOWNSHIP, who also serves on the Township Board (the Township Trustees, MARIPAT OLIVER, KEN BURGESS, ALYSSIA BENFORD, and DENNIS RAGA, as well as the Township Supervisor, FELIX GEORGE, shall collectively be referred to as the “Township Board”).

**ANSWER: Defendants admit the allegations contained in Paragraph No. 6.**

7. Townships, among other enumerated units of local government, exercise limited governmental powers with respect to limited governmental subjects, and “shall have only powers granted by law.” Illinois Constitution, Art. VII § 8.

**ANSWER: Defendants lack sufficient knowledge or information to admit or deny the allegations contained in Paragraph No. 7.**

8. The corporate powers of a township are clearly defined and limited per the Township Code, 60 ILCS 85-5 *et seq.*

**ANSWER: Defendants admit that the Township’s authority and power are defined within the Township Code. Defendants deny any remaining allegations contained in Paragraph No. 8.**

9. The Township Code, 60 ILCS 1/, provides in § 35-5 that the Township Board may call a Special Township Meeting by filing with the Township Clerk a written statement that a special meeting is necessary for the interests of the Township.

**ANSWER: Defendants admit that Paragraph No. 9 contains a portion of § 35-5 of the Township Code.**

10. The written statement must “set forth the objects of the meeting, which must be relevant to powers granted to electors” under the Township Code. *Id.*

**ANSWER: Defendants admit that Paragraph No. 10 contains a portion of § 35-5 of the Township Code.**

11. The Special Township Meeting must be held no less than 14 nor more than 45 days after the written request is filed. *Id.*

**ANSWER: Defendants admit that Paragraph No. 11 contains a portion of § 35-5 of the Township Code.**

12. The Township Code, 60 ILCS 1/80-10(e) mandates that all Township Meetings are subject to the provisions of the Open Meetings Act (“OMA”), 5 ILCS 120/1 *et seq.*

**ANSWER: Defendants deny the allegations contained in Paragraph No. 12.**

13. The OMA requires that all final action shall be preceded by a public recital of the nature of the matter being considered and other information that will inform the public of the business being conducted. 5 ILCS 120/2.02(e).

**ANSWER: Defendants admit that Paragraph No. 13 contains a portion of § 2.02(e) of the OMA.**

14. The OMA requires that all meeting agenda shall set forth the general subject matter of any resolution or ordinance that will be subject of the final action at the meeting. 5 ILCS 120/2.02(c).

**ANSWER: Defendants admit that Paragraph No. 14 contains a portion of § 2.02(c) of the OMA.**

15. The Township Board had the ability under the OMA to conduct a meeting by audio or video conference so long as “members of the public can hear all discussion and testimony and all votes of the members of the body, unless attendance at the regular meeting location is not feasible...” and in that event the Township Board was required to “make alternative arrangements and provide notice...of such alternative arrangements in a manner to allow any interested member of the public access to contemporaneously hear all discussion, testimony, and roll call votes, such as by offering a telephone number or a web-based link.” 5 ILCS 120/7(e)(4).

**ANSWER: Defendants admit that Paragraph No. 15 contains a portion of § 7(e)(4) of the OMA.**

16. On or about Tuesday, December 1, 2020, Defendants, MARIPAT OLIVER and KEN BURGESS filed a Special Meeting Agenda with the Township Clerk, setting a Special Meeting of the DuPage Township Board for Friday, December 4, 2020 at 6:00 p.m. at the Levy Center in Bolingbrook, Illinois. A true and complete copy of the Special Meeting Agenda is attached as **Exhibit A.**

**ANSWER: Defendants admit the allegations contained in Paragraph No. 16.**

17. The Special Meeting Agenda specifies the following two discussion items as the only topic of the Special Meeting:

- a. Discussion of investigation matter number 2020-DT-01, any actions to be taken or solutions proposed, and possible roll call vote to enter Closed Session pursuant to Sections 2(c)(1) and 2(c)(11) of the Illinois Open Meetings Act, 5 ILCS 120/1, *et seq.*;
- b. Discussion regarding Township Attorney and possible roll call vote to enter Closed Session pursuant to Section 2(c)(1) of the Illinois Open Meetings Act, 5 ILCS 120/1, *et seq.*;

**Exhibit A, p. 2.**

**ANSWER: Defendants admit the allegations contained in Paragraph No. 17.**

18. Upon information and belief, the designation 2020-DT-01 in the Special Meeting Agenda (**Exhibit A**) refers to an internal investigation number Defendants, MARIPAT OLIVER, KEN BURGESS, and FELIX OLIVER assigned to their review of an investigation of Plaintiff, ALYSSIA BENFORD's conduct as Township Trustee.

**ANSWER: Defendants deny that 2020-DT-01 was a number assigned by Defendants for their review of Plaintiff, Alyssia Benford. Defendants admit the remaining allegations contained in Paragraph No. 18.**

19. Upon information and belief, Defendants, MARIPAT OLIVER, KEN BURGESS, and FELIX OLIVER failed to file with the Township Clerk a written statement that a special meeting is necessary for the interests of the Township, nor did they provide the public with at least fourteen (14) days' notice prior to scheduling the Special Township Meeting as required by the Township Code, 60 ILCS 1/35/-5.

**ANSWER: Defendants admit that Defendants Oliver and Burgess did not file their written statement requesting a special meeting fourteen (14) days prior to the special meeting on December 4, 2020. Defendants deny the remaining allegations contained in Paragraph No. 19.**

20. On Friday, December 4, 2020, at 6:00 p.m., Defendants, MARIPAT OLIVER, KEN BURGESS, and FELIX GEORGE met with the Township Clerk for a Zoom conference meeting at the Levy Center.

**ANSWER: Defendants admit the allegations contained in Paragraph No. 20.**

21. Township Attorney, Ross Secler, Plaintiffs, ALYSSIA BENFORD and DENNIS RAGA, as well as various members of the public, including but not limited to Plaintiff, JOHN KRAFT, attended the Zoom conference meeting via the Zoom link in the Special Meeting Agenda (**Exhibit A**).

**ANSWER: Defendants admit the allegations contained in Paragraph No. 21.**

22. Plaintiff, JOHN KRAFT recorded the December 4, 2020 Zoom Conference meeting and uploaded the recording to YouTube. The Zoom Conference meeting recording can be found at <https://www.youtube.com/watch?v=lz2UMPn-Gj0&feature=youtu.be&t=1142> (the “YouTube Video”).

**ANSWER: On information and belief, Defendants admit the allegations contained in Paragraph No. 22.**

23. As evidenced by the YouTube Video, Attorney Secler and Plaintiffs, ALYSSIA BENFORD, DENNIS RAGA, and JOHN KRAFT commented numerous times during the Zoom Conference Meeting that they could not hear what Defendants, MARIPAT OLIVER, KEN BURGESS, and FELIX GEORGE were saying and that they did not understand what was happening at the Zoom Conference meeting due to their inability to hear the proceedings.

**ANSWER: On information and belief, Defendants admit the allegations contained in Paragraph No. 23.**

24. Due to his inability to hear, Plaintiff, DENNIS RAGA stated during the Zoom Conference meeting that the Zoom participants' inability to hear what business was being transacted at the purported Special Meeting violated the OMA and he moved to adjourn the illegal meeting. YouTube Video.

**ANSWER: On information and belief, Defendants admit the allegations contained in Paragraph No. 24.**

25. Plaintiff, ALYSSIA BENFORD seconded the motion, but the motion was defeated on a roll call vote by Defendants, MARIPAT OLIVER, KEN BURGESS, and FELIX GEORGE. YouTube Video.

**ANSWER: Defendants admit the allegations contained in Paragraph No. 25.**

26. At some point during the Zoom Conference meeting Defendants, MARIPAT OLIVER, KEN BURGESS, and FELIX GEORGE purported to move into Executive Session away from the members of the public present via Zoom.

**ANSWER: Defendants admit that during the meeting on December 4, 2020, a trustee moved to enter into Executive Session and another trustee seconded the motion. Defendants deny any remaining allegations contained in Paragraph No. 26.**

27. During the Zoom Conference meeting, the Deputy Township Clerk, Lynne Woodard removed several members of the public from the Zoom meeting, placing the members of the public in a lobby where they could not hear what was being discussed by Defendants, MARIPAT OLIVER, KEN BURGESS, and FELIX GEORGE.

**ANSWER: Defendants admit that Deputy Township Clerk Woodward removed individuals from the Zoom meeting on December 4, 2020 because they were disrupting the meeting. Defendants deny the remaining allegations contained in Paragraph No. 27.**

28. At the conclusion of the Executive Session portion of the Zoom Conference meeting, Defendants, MARIPAT OLIVER, KEN BURGESS, and FELIX GEORGE purported to return to Open Session. YouTube Video, 1:08.

**ANSWER: Defendants admit that pursuant to a valid motion and second the trustees returned to Open Session. Defendants deny any remaining allegations contained in Paragraph No. 28.**

29. Upon returning to Open Session, Defendant, MARIPAT OLIVER made a motion to “censure” Plaintiff, ALYSSIA BENFORD for her behavior, which was seconded by Defendant, KEN BURGESS. YouTube Video, 1:14.

**ANSWER: Defendants admit the allegations contained in Paragraph No. 29.**

30. The December 4, 2020 Zoom Conference meeting violated the provisions of the OMA in the following ways:

- a. In violation of 5 ILCS 120/7(e)(4), members of the public, including Plaintiffs, ALYSSIA BENFORD, DENNIS RAGA, and JOHN KRAFT, who attended the Zoom Conference meeting via Zoom were deprived of any meaningful participation in, or even ability to hear and understand what was happening at the Zoom Conference meeting due to the audio difficulties that plagued the meeting.
- b. Defendants, MARIPAT OLIVER, KEN BURGESS, FELIX GEORGE violated § 2 of the OMA by entering into Executive Session during the purported Special Meeting. The OMA, 5 ILCS 120/2 requires that all meetings be open to the public unless the governing body recites certain enumerated exceptions into the record as a reason for entering into Executive Session. Both the Agenda and Defendants, MARIPAT OLIVER and KEN BURGESS cited during the Zoom Conference meeting §§ 2(c)(1) and (11) of the OMA as the bases for entering into Executive Session, but there was no issue of employee performance or discipline raised, nor was there any pending or threatened litigation. Defendants failed to provide any valid reason for entering into Executive Session during the purported Special Township Meeting.
- c. In violations of 5 ILCS 120/2(e) and 2.02(e)(4), Defendants, MARIPAT OLIVER, KEN BURGESS, and FELIX GEORGE vote to “censure” Plaintiff, ALYSSIA BENFORD when the final action was not identified anywhere on the Agenda for the purported Special Meeting, **Exhibit A**.

**ANSWER: Defendants deny the allegations contained in Paragraph No. 30.**



31. In violation of the Township Code and the Illinois Constitution, Art. VII, § 8, Defendants, MARIPAT OLIVER, KEN BURGESS, and FELIX GEORGE exceeded their statutory authority by voting to “censure” Plaintiff, ALYSSIA BENFORD when neither the Township Code nor any other Illinois law grants the Township Board such a power. See Illinois Attorney General Public Access Opinion 91-001 (finding that absent an express statutory provision so providing, public bodies do not have the power to sanction their members).

**ANSWER: Defendants deny the allegations contained in Paragraph No. 31.**

32. Further, Defendants, MARIPAT OLIVER and KEN BURGESS violated the Special Township Meeting fourteen (14) days’ notice provision, 60 ILCS 1/35-5, by filing an Agenda on a Tuesday for a Special Township Meeting that Friday.

**ANSWER: Defendants admit that there was less than fourteen (14) days between the filing of the request for a meeting and the meeting on December 4, 2020; however, Defendants deny that there was not adequate notice under the OMA.**

33. The failure of Defendants, MARIPAT OLIVER and KEN BURGESS to provide adequate notice to the public of the purported Special Township Meeting on December 4, 2020 renders the meeting void for lack of adequate notice.

**ANSWER: Defendants deny the allegations contained in Paragraph No. 33.**

34. Upon information and belief, Defendants, MARIPAT OLIVER, KEN BURGESS, and/or FELIX GEORGE intend to approve the minutes generated at the Special Meeting at the next regularly scheduled Township Board Meeting set for December 15, 2020.

**ANSWER: Defendants deny the allegations contained in Paragraph No. 34.**

35. Upon information and belief, Defendants, MARIPAT OLIVER, KEN BURGESS, and FELIX GEORGE made their illegal attempt to “censure” Plaintiff, ALYSSIA BENFORD, for

vague, unspecified allegations concerning her “behavior” as Trustee for the purpose of impugning her integrity and causing damage *per se* to her reputation in the community, and such conduct should not be allowed to continue considering the Township Board’s lack of legal authority to take such action in the first place.

**ANSWER: Defendants deny the allegations contained in Paragraph No. 35.**

36. The OMA creates a private right to a civil cause of action where the provisions of the OMA are not complied with, or where there is probable cause to believe that the provisions of the OMA will not be complied with in the future. 5 ILCS 120/3.

**ANSWER: Defendants admit that the OMA provides for a private right of action; however, Defendants deny that they violated the OMA or that they are otherwise liable to Plaintiffs.**

37. The Court has broad discretion in granting relief for a violation of the OMA, including issuance of a Writ of Mandamus requiring that a meeting be open to the public, granting an injunction against future violations of the OMA, ordering the public body to make available to the public such portion of the minutes of a meeting as is not authorized to be kept confidential, declaring null and void any final action taken at a closed meeting, and awarding attorney fees and costs to the prevailing party. 5 ILCS 120/3.

**ANSWER: Defendants admit that the OMA provides for certain relief for violations of the OMA; however, Defendants deny that they violated the OMA or that they are otherwise liable to Plaintiffs.**

38. Plaintiffs have incurred attorney fees and costs associated with prosecuting this cause of action.

**ANSWER: Defendants lack sufficient knowledge to admit or deny the allegations contained in Paragraph No. 38.**

Respectfully submitted,  
DEFENDANTS MARIPAT  
OLIVER, KEN BURGESS, FELIX  
GEORGE, AND DUPAGE  
TOWNSHIP

By: /s/ K. Austin Zimmer  
One of Their Attorneys

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**VERIFICATION BY CERTIFICATION**

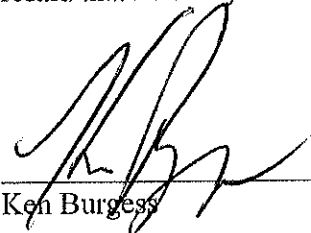
Maripat Oliver, a Defendant in the above-captioned matter, under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters, the undersigned certifies as aforesaid that she verily believes the same to be true.



Maripat Oliver

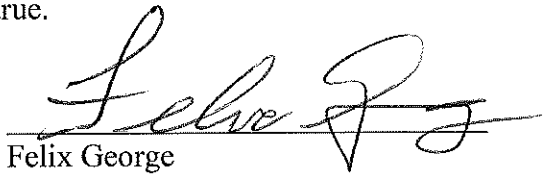
**VERIFICATION BY CERTIFICATION**

Ken Burgess, a Defendant in the above-captioned matter, under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters, the undersigned certifies as aforesaid that he verily believes the same to be true.

  
\_\_\_\_\_  
Ken Burgess

**VERIFICATION BY CERTIFICATION**

Felix George, a Defendant in the above-captioned matter, and on behalf of DuPage Township, under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters, the undersigned certifies as aforesaid that he verily believes the same to be true.

  
Felix George